

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 19-145(1) (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

David Allen Neadeau,

Defendant.

The above matter comes before the Court on Defendant David Allen Neadeau's ("Defendant") objections (Doc. No. 32) to Magistrate Judge Leo I. Brisbois' Report and Recommendation dated August 29, 2019 (Doc. No. 31) insofar as it recommends that Defendant's Motion for Suppression of Evidence Obtained as a Result of Search of Vehicle (Doc. No. 23) be denied. The Government responded to Defendant's objections on September 25, 2019 (Doc. No. 33.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections.

In the Report and Recommendation, the Magistrate Judge concluded that there was probable cause to issue a search warrant for Defendant's vehicle on March 13, 2019. In particular, the Magistrate Judge detailed the information contained in the affidavit in

support of the application for the search warrant of Defendant's vehicle. These facts include the following: law enforcement encountered Defendant sleeping in his parked but running car; only after several attempts was law enforcement able to wake Defendant up; law enforcement initiated multiple field sobriety tests, two of which Defendant failed; after being arrested, Defendant's urine test was positive for methamphetamine, amphetamine and MDMA. The Magistrate Judge found that the judge who signed the search warrant had a substantial basis to conclude that there was a reasonable probability that evidence of Defendant's drug use could be found in the vehicle. (Doc. No. 31 at 7.) The Magistrate Judge went on to conclude that, even if probable cause did not exist to believe that evidence of a crime could be found in Defendant's vehicle, both the *Leon* good-faith and automobile exceptions would apply. (*Id.* at 8, 9 n.4.)

Defendant contends that the Magistrate Judge erred in the above conclusions. First, Defendant argues that the Magistrate Judge erred in concluding that the judge had a substantial basis to conclude that there was a reasonable probability that evidence of Defendant's drug use could be found within the vehicle, focusing on the absence of any indication that law enforcement observed or suspected drug contraband or the presence of any odor consistent with a controlled substance. Second, Defendant argues that the Magistrate Judge erred in concluding that the *Leon* good-faith exception would apply because the judge did not give any meaningful review to the warrant application and merely "rubber stamped" law enforcement's request. Finally, Defendant argues that the Magistrate Judge erred in concluding that law enforcement could have searched the

vehicle under the automobile exception because nothing observed within the vehicle would indicate any controlled substances would be located inside the vehicle.

The Court has carefully reviewed the Report and Recommendation, Defendant's objections, and the Government's arguments in response. After that review, the Court finds no reason to depart from the Magistrate Judge's recommendations, which are both factually and legally correct. The Magistrate Judge thoroughly considered whether the search warrant at issue was supported by probable cause and correctly concluded that it was so supported. In addition, the Magistrate Judge correctly concluded that even without probable cause, Defendant's motion to suppress would be properly denied under the *Leon* good-faith exception. Based upon the Court's *de novo* review of the record, the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Defendant's objections (Doc. No. [32]) to Magistrate Judge Leo I. Brisbois's Report and Recommendation are **OVERRULED**.
2. Magistrate Judge Leo I. Brisbois's Report and Recommendation (Doc. No. [31]) is **ADOPTED**.
2. Defendant's Motion for Suppression of Evidence Obtained as a Result of Search of Vehicle (Docket No. [23]) is **DENIED**.

Dated: October 15, 2019

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge